



BOARD OF BARBERING AND COSMETOLOGY
CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS
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Board of Barbering and Cosmetology
Department of consumer Affairs, Hearing Room 1030
400 R Street
Sacramento, CA 95814

MEETING OF THE BOARD OF BARBERING AND COSMETOLOGY

MINUTES OF APRIL 25, 2005

BOARD MEMBERS PRESENT:

Dr. Della M. Condon, President
Joe Gonzalez, Vice President
Richard Hedges
Frank Lloyd
Candice Peterson
Angela Reddock

STAFF MEMBERS PRESENT:

Terresa A. Ciau, Executive Officer
Albert Balingit, Staff Counsel
Kristy Underwood, Administrative Analyst
Kelly Schmidt, Staff
Theresa Kimura-Yip, Enforcement Manager

1. Agenda Item #1, CALL TO ORDER/ROLL CALL

Dr. Condon called the meeting to order at 9:00 a.m. The Board members introduced themselves and briefly gave their background. Staff also introduced themselves. Also introduced were Nancy Hall, Deputy Director of the Department of Consumer Affairs; and Glen Formen from the Department of Industrial Relations, Division of Apprenticeship Standards.

2. Agenda Item #2, PRESIDENT'S REPORT

Dr. Condon acknowledged the passing of Frank Saldana, "The Singing Barber of Catalina." He had many years of service to the profession and offered a positive contribution. A proclamation will be sent to his family recognizing these accomplishments.

Dr. Condon recognized the Marinella School of Beauty for their extraordinary service to the beauty industry. The school recently celebrated their 100 years. Mr. Gonzalez was able to attend the celebration and commended the school, its staff and excellent program.

Dr. Condon noted staff is working hard on the Sunset Review Report. A workgroup has been formed for the review.

Dr. Condon was able to visit a manufacturer of footspas/pedi tubs. Upon review of the instruction booklets, she noted the need to clean the vents frequently, and correct

misinformation about disinfections from manufacturers. She noted the enforcement activity is focusing on this issue. She suggested training sessions be conducted in major metropolitan areas on the usage of these machines/products. This issue will be discussed in the future.

Mr. Hedges commended staff on their progress on the DRC hearings; the backlog is getting better. He has suggested more meetings of the Enforcement Committee to keep on top of this issue. He has been communicating with staff leadership for some creative ideas on reducing the backlog.

3. Agenda Item #3, EXECUTIVE OFFICER'S REPORT

Ms. Ciau reported on the workload statistics. They have been revamped to reflect the cashiering unit's transitioning to the Board in January. All items must be cashiered by June 30, 2005 to close out the fiscal year. The Board's three positions were transferred back to the Board along with the cashiering workload.

4. Agenda Item #4, APPROVAL OF BOARD MEETING MINUTES – FEBRUARY 28, 2005

Dr. Condon noted a correction on page 1, Agenda Item #2, "lack of confidence in the industry," should read "...in the manicuring industry." Also, "Board staff sent out flyers on disinfection and sanitation should read "...flyers on pedicure disinfection and sanitation".

Upon a motion by Mr. Gonzalez, seconded by Mr. Hedges, the minutes of February 28, 2005 were approved by a 6-0 vote.

5. Agenda Item #5, PROPOSED LEGISLATION AND REGULATIONS

- A) AB163: This bill has been amended, staff reviewed the amendments with the Board. Language has been added regarding incidental trimming of eyebrow hair. The bill's sunset date is now 2007, not 2010. The prior position of the Board was support if amended.

Fred Jones, PBFC, reviewed the history of AB163. He expressed concern that this bill allows training and the use of scissors to be unregulated and unlicensed until 2007 as long as it is part of the threading procedure. THE PBFC opposes the bill.

Upon a motion by Mr. Gonzalez, seconded by Ms. Pederson, it was voted 6-0 to support the bill as amended.

- B) AB1263: This bill has recently been amended. The changes were provided to the Board. Dr. Condon asked Ms. Ciau if the additional budgeted funding is sufficient to handle the increased workload to staff. Ms. Ciau noted the budget was based on an estimate; she noted a health consultant may be needed to be hired to assist in the health aspects of the enforcement. Staff currently does not have that expertise. Dr. Condon expressed her concern about the increased pressure on staff, and to make sure the funding is there to get things done. Ms. Ciau clarified the additional positions

requested are for inspectors and support staff, all permanent positions. The Board agreed the bill is a good step forward in protecting the public.

Fred Jones, Professional Beauty Federation of California, addressed the Board. His position is proposed unless amended. He believed the scope of the bill encompasses the practice of cosmetology and not just pedicure services. He requested the language be tightened to clarify this issue. His organization is concerned with the scope and provisions of the bill, it is too detailed.

Dale Shimazaki, Amerispa, addressed the Board and Mr. Jones' concerns. He stated they would be interested in talking with the author of the bill to make the clarification regarding pedicures. His organization is concerned with sanitation and disinfection procedures. He did not believe the bill was too detailed.

Derek Azzaro, industry member, asked if the board was involved in the drafting of the bill. He noted the board and staff are very busy now; he recommended charging a usage fee to each salon that has a footspa.

Linda Flores, California Cosmetology Association, noted her organization supports the bill. She does not support taxing the spas.

Mary Anlein, Happy Nails and Spa, supports the bill. They welcome the regulations for the industry's reputation. She does not support the tax.

Upon a motion by Mr. Lloyd, seconded by Mr. Gonzalez, it was voted 6-0 to support AB1263.

- C) Other Bills of Interest to the Board: AB 861 was reviewed and discussed. The bill eliminates the Board's authority to deny a license or modify the conditions of felony or fraud. Ms. Pederson expressed concern over the intent of the bill, and wanted more clarification. Upon a motion by Mr. Hedges, seconded by Mr. Gonzalez, it was voted 6-0 to oppose the bill. However, after discussion, Mr. Hedges withdrew his motion, Mr. Gonzalez agreed to withdraw his second. Mr. Hedges then moved to oppose the bill unless amended. Mr. Lloyd seconded the motion, and it was approved by a 6-0 vote.

Quinton Carter expressed his support of the bill.

- D) Update on Licensure by Endorsement and Passing Grades in Examination Regulatory Packages: The Board was provided an update on the two regulatory packages that staff is currently working on.
- E) Draft Regulatory Language for Administrative Fine Schedule: The Board was provided with draft language developed by staff to increase the fines. Approval was received two years ago through legislation. Ms. Gonzalez asked for clarification of section 7349, why some items regarding the second and third violations were crossed off. Ms. Ciau was unable to explain, noting it may be an error, and decided she would have to return to the next meeting with the language for the Board to approve.

6. Agenda Item #6, REPORT OF THE LICENSING AND EXAMINATION COMMITTEE

- A) Proposed Language for Instructor Qualifications: The Committee approved the proposed language for instructor qualifications and it has been presented to the Board for approval. The changes the committee made at its meeting were discussed. Mr. Lloyd noted low test scores are not the sole responsibility of the instructors. The Board agreed that some kind of instructor qualifications is needed to ensure students obtain a proper education.

Fred Jones, PBFC, reiterated his organization's opposition to the proposed language. Expressed concerns about dual regulations on instructors from the Board and the Bureau for Private Postsecondary and Vocational Education.

Jim Edwards, CASC, also expressed concerns over extensive regulations of public and private schools.

Belinda Silva, a student at Skyline College, expressed her concern that her teachers would require further licenses under this proposal.

Sharlyn Ada, from Marinella Schools, noted their school has upgraded their programs for teachers to ensure teachers are highly qualified. She agreed a teacher needs more than a certification.

Linda Flores, California Cosmetology Association, recommended adding the mandatory continuing education language for instructors. Even if an instructor is not teaching, they can still be up-to-date.

Quinton Carter questioned why the Board is putting more regulations on the schools, adding another layer of bureaucracy. The examination is the problem, not the instructors.

A speaker from Solano College, noted she has seen people take advantage of instructors with low pay. Education empowers the industry, she hoped the Board would not take that away.

Mary Ann Haley, Solano Community College, believed educated teachers are taught to keep up on current standards in the industry. Further training for teachers makes them more effective.

Ms. Pederson made the motion to approve the document with the changes. Mr. Hedges seconded the motion and it was approved by a 5-1 (Lloyd) vote. Legislative language will now be developed to be forwarded through the legislative process.

- B) New Textbook Review and Approval: A list of recommended textbooks was presented to the Board for approval. The list included the comments of the subject matter experts who reviewed the books. Mr. Gonzalez questioned why the books did not contain

much information on chemicals, hazardous substances and other procedures. Ms. Ciau noted one of the comments from the experts was that some of the procedures did not seem to be in line with California standards. She noted the comments are included in the negative comments to be sent to the publishers.

Mary Ann Haley, Solano Community College, noted the textbooks are used as a national reference, and are supplemented with further California rules and regulations and updates.

Upon a motion by Mr. Lloyd, seconded by Mr. Hedges, it was voted 5-1 to approve the proposed textbook list. Dr. Condon abstained due to a possible conflict of interest.

It was moved and seconded at this time to hear Item #11 at this time.

- C) Apprenticeship Program Report: Mr. Lloyd reported on the working group's recent activities and the recommended changes to the apprenticeship program. One change was that the apprentice be allowed to begin employment upon receipt of proof of 39 hour training, and not have to wait for license; application must be submitted within 30 days of training. Another revised recommendation was that the apprentice be allowed up to 2 attempts (not 3) at the examination; If a failing grade is achieved two times, the apprentice must stop work and obtain additional training. Mr. Gonzalez made a motion to amend item #4, ratio of apprentices to trainers, that 4 apprentices per location be allowed. Mr. Hedges seconded the motion. Mr. Lloyd believed the 4:1 ratio may be a burden on the smaller shop. He proposed the one-to-one ratio provides is a better learning environment. Ms. Pederson agreed the requirements should be different for the large and smaller shops. The Board agreed there needs to be a balance of good education and consumer protection.

Public comment was opened.

Jerry Tyler of Carlton Hair supported the one-to-one ratio. He cautioned against setting artificial barriers. He did not feel there should be a maximum. He recommended if a teacher is qualified, there should be no limit on the amount of apprentices per shop; it should be at the discretion of the shop owner.

Ella Townsend, with LAJATC, requested the committee look at different procedures for mailing licenses to sponsors.

Again, Mr. Gonzalez made the motion to change the ratio from 1:1 to a maximum of 4, seconded by Mr. Hedges seconded the motion. However, the motion was opposed by a vote of 1-6.

Dr. Condon requested to add to the recommended changes that within 30 to 60 days from failing the first exam, an apprentice would need to apply to retake the exam. Mr. Lloyd felt the apprentice would need more time to prepare for the exam. After discussion, the Board agreed 90 days was more appropriate, although Dr. Condon expressed her dissent.

Upon a motion by Mr. Hedges, seconded, to approve the final recommendations as presented on the apprenticeship program task force. The recommendations were approved by a 6-0 vote.

Public comment was opened.

Jeri Tyler expressed support for the 90 day timeframe.

- D) Progress Update on the Externship Program: Dr. Condon reported on the progress of the externship working group. The recommendations of the group included: the externship program should remain active; the legislative change should be implemented that will allow community colleges to participate in the externship program; schools should administer mock board examinations to externs prior to them being approved to participate in the program; daily progress reports should be completed by the training establishment; students should have their operations completed by 1200 hours; trainer will have no outstanding violations; name change discussion; current ratio of 4 licenses to 1 extern per salon be maintained, with a primary designated trainer. Ms. Pederson commended the workgroup for their hard work. It was agreed the process should not be over-regulated. Public comment was opened.

Jerry Tyler, of Carlton Hair International, expressed his support for the recommendations of the work group.

Sharlyn Ada expressed her support for the working group's recommendations and noted the externship program has been very successful. She noted students get antsy after 700-800 hours.

Fred Jones, PBFC, tried to clarify the mock board exam. Dr. Condon assisted him in his clarification. He suggested the mock board exam recommendation be removed.

Alex Irving, public relations, works with SuperCuts, California, noted many members of the task force believed the reasons why the program was not being utilized as much as it should was because of the micromanagement of the structure was too complex. He suggested the committee spend more time reviewing the program.

Jim Edwards, CASC, also stated the program was too complex for many salons. He recommended acquiring the hours in blocks of time.

A motion was made by Mr. Gonzalez, seconded by Ms. Pederson to accept the recommendations of the work group and forward to the joint committee. The motion passed by a 6-0 vote.

- E) Progress Update on the 1600-Hour Curriculum: The committee has received notice from the Office of Exam Resources that this item will not be reviewed until next year, unlike the timeline of the legislature. A task force was formed, and Dr. Condon summarized the task force's discussions. The working group discussed the exam's

responsiveness to the occupational analysis; adding scalp treatment be included with the wet hair stylist and hours of the scalp treatment be transferred to the disinfecting and sanitation section; the difference between heated curling irons and other heated materials; creation of single hairstylist license-the majority of the group agreed to keep the license styling categories as they are; required operations and hours should be brought into line with the current occupational analysis; the group agreed the curriculum requirement will remain at 1600 hours, but modifications within those may be made in the future, in relation to what the occupational analysis shows. In teaching knowledge and synthesis work together to distinguish a good teacher. All agreed a tremendous amount of work lies ahead to look into each of these issues.

Jerry Tyler of Carlton Hair indicated his support for the task force's recommendations.

Sonia Godwin of Skyline questioned the importance of clocking in and clocking out.

Alex Irving recommended refining the practical exam.

Sharlyn Ada noted it is important for cosmetologists to be aware of consumer protection when it comes to heat styling. Testing and curriculum need to be updated with current trends in the industry.

Upon a motion by Mr. Hedges, seconded by Mr. Gonzalez, it was voted 5-1 (Lloyd) to approve the committee's recommendations.

7. Agenda Item #7, REPORT OF THE ENFORCEMENT AND INSPECTIONS COMMITTEE; DELEGATION OF AUTHORITY TO GRANT 10-DAY STAY FOR PETITIONS FOR RECONSIDERATION.

Staff explained the process for the Petition for Reconsideration. After the Board's decision is sent out, the decision becomes effective thirty days after service. The respondent has due process rights and may request reconsideration of the Board's decision and must come within thirty days. In the past, the requests have come in at the last minute, and staff cannot get the information to the Board members for their consideration. Staff is now recommending that the Board grant the authority to the executive officer to have a 10-day stay order. The decision would therefore be stayed for ten days, allowing staff to get the information to the Board members so they can make their decision. Upon a motion by Mr. Hedges, seconded, it was voted 6-0 to approve staff's request to approve delegation of authority to grant a ten-day stay for Petitions for Reconsideration.

8. Agenda Item #8, REPORT OF THE DISCIPLINARY REVIEW COMMITTEE

Mr. Gonzalez, the committee chair, noted staff has been very helpful in completing the tasks of the committee. Staff presented the objectives of the disciplinary review committee. Specific data on monthly appeals was presented. Current backlog is 1,090 appeals. Mr. Hedges questioned the low number of appeals received in the past month.; staff was unsure; citations are up to date. Mr. Hedges requested the committee meet every six weeks, rather than every

two months. It was proposed to do three days, and not two. Staff is researching funding for extra meetings. Staff projected the backlog will be caught up by the end of the year.

9. Agenda Item #9, UPDATE ON THE COMPUTER BASED TESTING REQUEST FOR PROPOSAL

Ms. Pederson reported on a meeting she recently attended regarding the process of computer based testing. Mr. Gonzalez asked about vendor selection, and the process. Staff did not believe a proposal was out for a bid to provide vendor services. Mr. Gonzalez asked if the vendors' backgrounds were being researched. Staff was unsure. Ms. Pederson indicated this process had not been addressed at the meeting she attended. Dr. Condon questioned if the Board would have the opportunity to review the vendors.

Dr. Tracy Montez, Department of Consumer Affairs, Office of Examination Resources, clarified some issues for the Board. The bid has not gone out. They are working with Business Services to meet the parameters associated with the Request for Proposal. Once the bid does go out, all the information is public. The DCA has had concerns about the timeframes for the new contract and Dr. Montez assured the board that contingency plans are in place so the new contract process will not impact the testing services. The evaluation of individual bids will be a team of evaluation members and the board can be a part of that process. The vendors will not come to make individual presentations, which is outside of the RFP proposal. Once the contract is awarded, the board is welcome to then ask the vendor to give a presentation to the board. Dr. Montez reiterated it is a very specific process that has to be followed in accordance with policies and laws.

Mr. Gonzalez had expressed his concern about the choice of vendor. Dr. Montez indicated his concerns will be noted and brought into the process. A board representative can also be a part of the evaluation process.

10. Agenda Item #10, STATUS OF THE NEWSLETTER

Dr. Condon acknowledged Dr. Waddell Herron and congratulated him on his efforts. Dr. Herron's Board term has expired.

Dr. Condon noted Ms. Pederson has been appointed to the board for a four year term.

Staff noted Dr. Herron's work on the newsletter. Four items with board member input are coming soon for inclusion into the newsletter. Angela Reddock volunteered to organize the articles for the newsletter.

11. Agenda Item #11, WHIRLPOOL FOOTSPA DEMONSTRATION

Dr. Chris O'Brien discussed the clinical applications of the foot spa. A demonstration of the Amerispa foot spa was presented to the Board.

12. Agenda Item #12, PUBLIC COMMENT

Joyce Sanwong noted her background in the medical field and bacteria is abundant. She congratulated the board for their aggressive approach in consumer protection. She noted laser hair removal does not need a medical doctor.

Jerry Tyler, Carlton Hair, reviewed possible license categories, including the hair stylist license, salon assistant license as offered in other states, shampoo licenses. He recommended California join other states to offer these courses/licenses. Will reduce illegal activity. He also addressed booth renter independent contractors.

Derek Azzaro, commended the Board for beginning the newsletter and keeping everyone informed. Pleased to see the Board aggressively addressing consumer protection. Enforcement department needs the funds to do their jobs. Commended Board for having open meetings to take input from the public.

13. Agenda Item #13, AGENDA ITEMS FOR NEXT MEETING

Mr. Gonzalez requested discussion regarding vendors, and testing.

Dr. Condon requested sunset review progress report and community education progress report.

Mr. Hedges requested an update on the disciplinary review committee.

14. Agenda Item 14, DECISIONS ON DISCIPLINARY CASES (CLOSED SESSION)

The Board went into closed session to review disciplinary cases.

The meeting was reopened after the Board returned from closed session.

15. Agenda Item 15, ADJOURNMENT

The meeting was adjourned at approximately 5:00 p.m.